

**IN THE UNITED STATES BANKRUPTCY COURT FOR  
THE EASTERN DISTRICT OF PENNSYLVANIA**

**In re:**

**MARIETOU FANNY,  
Debtor**

**: CHAPTER 13  
: BANKRUPTCY NO. 17-16335**

**MARIETOU FANNY,  
Plaintiff**

**v.**

**CITY OF PHILADELPHIA,  
Defendants**

**: ADVERSARY NO. 18-**

**COMPLAINT**

- 1) This is an action by the Debtor to avoid totally unsecured alleged security interests against her residential realty.
- 2) Jurisdiction of this court to hear this proceeding is conferred by 28 U.S.C. section 1334(b). This is a core proceeding because it seeks to determine the validity of liens, pursuant to 28 U.S.C. sections 157(b)(2)(K).
- 3) The Plaintiff in this proceeding is MARIETOU FANNY (“the Debtor”), an adult individual residing at 2001 Hamilton St., Apt. 302, Philadelphia, PA. 19130 (“the Home”), who is the Debtor in the underlying Chapter 13 bankruptcy case.
- 4) The Defendant is the CITY OF PHILADELPHIA, a municipality which has filed a proof of claim in this case secured by the Home in the amount of \$2791.77, and lists on its claim an address of Megan N. Harper, Esq., Deputy City Solicitor, City of Philadelphia, Law Revenue Bureau, 5<sup>th</sup> Floor, 1401 JFK Blvd., Philadelphia, PA. 19102.
- 5) The first mortgage on the Home is serviced by Fay Servicing Co. (“Fay”).
- 6) Fay has asserted a secured proof of claim in the amount of approximately \$520,000.
- 7) The value of the Home is no more than \$400,000.
- 8) The security interests in the Home claimed by the Defendant, which are junior to the first-lien

position asserted by Fay against the Home, are therefore totally under-secured and, as such, are subject to avoidance pursuant to 11 U.S.C. section 506(a), as interpreted by In re McDonald, 205 F.3d 606 (3d Cir. 2000).

9) As a result, the claim of the Defendant must be reclassified as unsecured.

WHEREFORE, the Plaintiff requests this court to enter an Order avoiding the Defendant's security interest against the Home, and reclassifying the Defendant's claim as unsecured.

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